

## Chapter 11

Case No. 24-90621 (ARP)

(Jointly Administered)

Adv. No. 24-03277

FLECKER, COLLEEN CELMER, CORY	)
MONGNO, and CORTNIE TANGO, on behalf of	)
themselves and all others similarly situated,	)
	)
Plaintiffs,	)
v.	)
	)
PARTY CITY HOLDCO, INC., AMSCAN,	)
INC., AM-SOURCE, LLC, PARTY CITY	)
CORPORATION, PARTY CITY	)
HOLDINGS INC., PC INTERMEDIATE	)
HOLDINGS, INC., and TRISAR, INC.,	)
	)
Defendants	

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**DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' N.J. WARN ACT CLAIM FOR  
FAILURE TO STATE A CLAIM PURSUANT TO FED. R. CIV. P. 12(b)(6) AND FED. R.  
BANKR. P. 7012(b)**

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[Related to Docket No. 15]

**If you object to the relief requested, you must respond in writing. Unless otherwise directed by the court, you must file your response electronically at <https://ecf.txsb.uscourts.gov/> within twenty-one days from the date this motion was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk within twenty-one days from the date this motion was filed. Otherwise, the court may treat the pleading as unopposed and grant the relief requested.**

Defendants Party City Holdco, Inc. and its related debtors (collectively, “Defendants”) hereby submit this *Motion to Dismiss Plaintiffs’ N.J. WARN Act Claim for Failure to State a Claim Pursuant to Fed. R. Civ. P. 12(b)(6) and Fed. R. Bankr. P. 7012(b)* (the “Motion”) and request the Court dismiss Plaintiff’s NJ WARN Act claim. Accompanying this Motion and incorporated by reference is Defendants’ *Brief in Support of Defendants’ Motion to Dismiss Plaintiff’s N.J. WARN Act Claim for Failure to State a Claim Pursuant to FED. R. CIV. P. 12(b)(6) and FED. R. BANKR. P. 7012(b)* (the “Brief”).

For the reasons set forth at length in the Brief, Plaintiffs’ NJ WARN Act claim fails to state a claim upon which relief can be granted. Plaintiffs’ NJ WARN Act claim fails as a matter of law because the place of employment from which Plaintiffs were laid off had *not* “been operated by

[Defendants] for a period longer than three years,” and thus was not an “establishment,” under the NJ WARN Act. *See* N.J.S.A. § 34:21-1. Rather, the earliest date Plaintiffs’ worksite could have started business operations was in February 2022, and it was thus operating for less than three years at the time of Plaintiffs’ employment termination. Separately, Plaintiffs’ Complaint also pleads no facts showing the place of employment from which Plaintiffs were laid off had “been operated by [Defendants] for a period longer than three years.” Plaintiffs’ NJ WARN Act claim thus does not, and here can never, state a claim upon which relief must be granted and must be dismissed with prejudice.

**Requested Relief**

For the foregoing reasons, and as set out in greater detail in the concurrently-filed Brief, Defendants respectfully request the Court dismiss Plaintiffs’ NJ WARN Act in its entirety with prejudice for failure to state a claim upon which relief can be granted under Fed. R. Bankr. P. 7012(b) and Fed. R. Civ. P. 12(b)(6).

Date: March 21, 2025

Respectfully submitted,

By: /s/ Brandon R. Sher

**OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.**

Brandon R. Sher, Esq.

Michael J. Westwood-Booth, Esq.

10 Madison Avenue, Suite 400

Morristown, New Jersey 07960

Tel: (973) 656-1600

Fax: (973) 656-1611

*Attorneys Pro Hac Vice for Defendants*

and

By: /s/ William Clareman

**PAUL, WEISS, RIFKIND, WHARTON  
& GARRISON LLP**

William Clareman, Esq.

Vida Robinson, Esq.

Theodore Furchtgott, Esq.

1285 Avenue of the Americas

New York, NY 10019

Tel: (212) 373-3000

Fax: (212) 757-3990

*Attorneys Pro Hac Vice for Defendants*

and

By: /s/ Megan Young-John

**PORTER HEDGES, LLP**

John F. Higgins (TX Bar No. 09597500)

Aaron J. Power (TX Bar No. 24058058)

M. Shane Johnson (TX Bar No. 24083263)

Megan Young-John (TX Bar No. 24088700)

1000 Main St. 36th Floor

Houston, Texas 77002

Tel: (713) 226-6000

Fax: (713) 228-1331

**CERTIFICATE OF SERVICE**

I hereby certify that, on this 21st day of March, 2025, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Megan Young-John

Megan Young-John